

ORDINANCE NO. 21-0-61

***An Ordinance Pertaining To Amusement Taxes
for the City of Woodstock***

WHEREAS, the City of Woodstock (the "City"), McHenry County, Illinois, is a home rule municipality as contemplated under Article VII, Section 6, of the Constitution of the State of Illinois, and the passage of this Ordinance constitutes an exercise of the City's home rule powers and functions, including, but not limited to, the power to tax and to incur debt as granted in the Constitution of the State of Illinois; and

WHEREAS, the Illinois Video Gaming Act ("VGA"), 230 ILCS 40/1 et seq., regulates the operation, licensing, and administration of video gambling; and

WHEREAS, the City in accordance with the VGA regulates video gaming activity within the City; and

WHEREAS, pursuant to Article VII, Section 6(a) and Section 6(i) of the Ill. Const. of 1970 in conjunction with 65 ILCS 5/11-42-5 of the Illinois Municipal Code, the City is authorized to impose a tax upon amusements; and

WHEREAS, the Illinois General Assembly's HB3136 passed through both houses on Thursday, October 28, 2021 and was further amended on Thursday, October 28, 2021 to preempt home rule powers if an ordinance imposing an amusement tax on persons who participate in the playing of video gaming terminals was not in place before November 1, 2021; and

WHEREAS, the City now desires to impose a tax upon the amusement of playing a video gaming terminal within the City ("Push Tax"); and

WHEREAS, the City's Push Tax will provide much needed revenue to promote the general health, safety, and welfare of the City and its residents, and provide adequate funds to offset the adverse effects of gambling within the City; and

WHEREAS, the Mayor and City Council of the City of Woodstock hereby believe that it is in the best interest of the City and its residents to impose said Push Tax.

NOW, THEREFORE, BE IT ORDAINED by the CITY COUNCIL of the CITY OF WOODSTOCK, McHenry County, Illinois, as follows:

SECTION ONE: The foregoing recitals shall be and are hereby incorporated as findings of fact as if said recitals were fully set forth herein.

SECTION TWO: Title 3, Chapter 2, Municipal Occupation Taxes, shall be renamed as "Chapter 2, Municipal Taxes."

SECTION THREE: Chapter 2, Municipal Taxes, shall be amended to add a new Section 3.2.12 entitled "AMUSEMENT TAX" which shall read as follows:

3.2.12: AMUSEMENT TAX

A. Applicability of Provisions: The provisions of this Section, except as otherwise provided, shall apply to all amusements as hereinafter defined, whether specifically licensed or regulated under other provisions of this code or other ordinances, or not.

B. Definitions:

1. The word "amusement" means: (1) any theatrical, dramatic, musical or spectacular performance, motion picture show, flower, poultry or animal show, animal act, circus, rodeo, athletic contest, sport, game or similar exhibition for public entertainment, including, without being limited to, boxing, wrestling, skating, dancing, swimming, racing, or riding on animals or vehicles, baseball, basketball, softball, football, tennis, golf, hockey, track and field games, bowling, billiard and pool games; (2) any entertainment offered for public participation, including, without being limited to, dancing, carnival, amusement park rides and games, bowling, billiard and pool games, or any Video Gaming Terminal.
2. Terminal Operator: Any individual, partnership, corporation, or limited liability company that is licensed under the Video Gaming Act, 230 ILCS 40/1 et seq., and that owns, services, and maintains Video Gaming Terminals for placement in licensed establishments, licensed truck stop establishments, licensed large truck stop establishments, licensed fraternal establishments, or licensed veterans establishments.
3. Person: Any natural individual that participates in an amusement, including a firm, organization, society, foundation, institution, partnership, association, joint stock company, joint venture, limited liability company, public or private corporation, receiver, executor, trustee or other representative appointed by order of any court, or any other entity recognized by law.
4. Play: Each individual push of the Video Gaming Terminal which initiates the simulation provided by the Video Gaming Terminal. Play shall not include the push of individual wager amounts, selection of types of games on the Video Gaming Terminal or entry of any information or printing of winning receipts.
5. Video Gaming Terminal: Any electronic video game machine that, upon insertion of cash, electronic cards or vouchers, or any combination thereof, is available to play or simulate the play of a video game, including but not limited to video poker, line up, and blackjack, as authorized by the Illinois Gaming Board utilizing a video display and microprocessors in which the player may receive free games or credits that can be redeemed for cash. The term does not include a machine that directly dispenses coins, cash, or tokens or is for amusement purposes only.

C. Amusement Tax Imposed

1. Push Tax

- a. Except as otherwise provided by this section, an amusement tax is imposed upon any person who participates in the Play of a Video Gaming Terminal that takes place within the jurisdictional boundaries of the City of Woodstock.

- b. The rate of the tax shall be equal to \$0.01 (one cent) per Play on a Video Gaming Terminal.
- c. The Terminal Operator of a Video Gaming Terminal may separately itemize and charge each Person who Plays a Video Gaming Terminal.

2. Tax Additional

The tax imposed in this Section is in addition to all other taxes imposed by the State of Illinois or any municipal corporation or political subdivision thereof.

3. Registration

- a. Every Terminal Operator of a Video Gaming Terminal(s) located in the City of Woodstock shall apply for registration as a tax collector with the City no later than thirty (30) days after commencing such business or thirty (30) days after the effective date of this Ordinance imposing the Push Tax, whichever occurs later.
- b. The application shall be submitted to the City on the forms provided by the City and contain such information as reasonably required by the City to impose, collect, and audit all amounts related to the Push Tax.

4. Collection, Payment, and Accounting

- a. It shall be the joint and several duty of every Terminal Operator of a Video Gaming Terminal(s) to secure from each Person participating in the Play of a Video Gaming Terminal the Push Tax imposed by this Section.
- b. For purposes of this section, it shall be presumed that the amount of the Push Tax imposed on each Person, unless the taxpayer or tax collector provides otherwise with books, records, or other documentary evidence, has been collected from the Person by the Terminal Operator.
- c. Push Tax payments accompanied by tax returns prescribed by the City shall be remitted to the City on or before the 20th day of the month following the month in which payment for the Push Tax is made.
- d. Every Terminal Operator of a Video Gaming Terminal who is required to collect the Push Tax by this Section shall be considered a tax collector for the City. All Push Tax amounts collected shall be held by the Terminal Operator as trustee for and on behalf of the City. The failure of the Operator to collect the tax shall not excuse or release the Person from the obligation to pay the tax.
- e. The ultimate incidence of the Push Tax shall remain on the Person and shall never be shifted to the Terminal Operator.

- f. Notwithstanding any other provision of this section, in order to permit sound fiscal planning and budgeting by the City, no person shall be entitled to a refund of, or credit for, the Push Tax imposed by this Section unless the person files a claim for a refund or credit within one (1) year after the date on which the Push Tax was paid or remitted to the City.
- g. The Terminal Operator of any Video Gaming Terminal(s) shall be subject to audit, inspection, and record keeping provisions of this Code.
- h. It shall be unlawful for any Terminal Operator and/or Person to prevent, hinder, or interfere with the City's Officials, employees, and/or agents designated to discharge their respective duties in the performance and enforcement of the provisions of this Section.
- i. It is the duty of every Terminal Operator of a Video Gaming Terminal(s) to keep accurate and complete books and records to which the City's officials, employees, and/or agents will at all times have full access.

5. Rules and Regulations; Authorized

The City Finance Director is authorized to adopt, promulgate, and enforce any additional rules and regulations pertaining to the interpretation, collection, administration, and enforcement of this Section.

6. Application of City Code.

Any citation under this section may be in addition to any other citations issued by the City under any and all applicable sections of the City Code.

7. Violations; Penalties

It shall be a violation of this section for a Terminal Operator to fail to file a report within the time prescribed in this section.

- a. Report Required: A Terminal Operator who falsely reports or fails to report the amount of Push Tax due as required by this section shall be in violation of this section and is subject to the suspension and/or revocation of their Terminal Operator License. All payments not remitted when due shall be paid together with a penalty assessment on the unpaid balance at a rate of 1.5% per month.
- b. Suspension Or Revocation Of License: The Local Liquor Commissioner or his or her designee shall have the power to suspend for not more than thirty (30) days or revoke any video gaming license issued under the provisions of this Code for cause, or if he/she determines that a Terminal Operator shall have violated any of the provisions of this section, any of the statutes of the State or any other valid ordinance or resolution enacted by the corporate authorities of the City. However, no such license shall be revoked or suspended except after the holding of a public hearing by the Local Liquor Commissioner or his or her designee. Ten (10) days' notice of the hearing shall be given to the Terminal Operator. Alternatively, the

Terminal Operator shall have the opportunity to engage in a prehearing conference and agree to negotiated penalties rather than proceed to a hearing.

- c. Fine Imposed: In addition, any Terminal Operator violating the provisions of this section shall be subject to a fine of \$250.00 for the first offense, and \$500.00 for the second offense and \$750.00 for a third offense and subject to a revocation of any license to operate a Video Gaming Terminal for the third offense.
- d. Each day a violation continues shall constitute a separate violation.
- e. It shall be deemed a violation of this section for any Person to knowingly furnish false or inaccurate information to the City.

SECTION FOUR: If any section, paragraph, subdivision, clause, sentence or provision of this Ordinance shall be adjudged by any Court of competent jurisdiction to be invalid, such judgment shall not affect, impair, invalidate or nullify the remainder thereof, which remainder shall remain and continue in full force and effect.

SECTION FIVE: That all Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION SIX: This Ordinance shall take effect immediately upon its passage, due to the urgency of implementing a Push Tax in light of HB 3136.

Upon a motion by D. Flynn and seconded by G. Tebo, passed this 31st day of October, 2021 by roll call vote as follows:

Ayes: Flynn, Lohmeyer, Piersall, Tebo, Mayor Turner

Nays: Ø

Abstentions: Ø


Absentees: Nierman, Seegers

APPROVED:


Mayor Michael Turner

(SEAL)

ATTEST:


City Clerk, Cindy Smiley

Passed:

October 31, 2021

Approved:

October 31, 2021

Published:

October 31, 2021

